Department of Energy
Washington, DC 20585

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MEMORANDUM FOR HUMAN RESOURCES DIRECTORS

FROM: KENNETH T. VENUTO, DIRECTOR
OFFICE OF HUMAN CAPITAL MANAGEMENT

SUBJECT: POLICY GUIDANCE MEMORANDUM # 32A
SCHEDULE A APPOINTMENTS OF PERSONS WITH DISABILITIES AND APPOINTMENTS FOR DISABLED VETERANS

Purpose: To establish policy and procedures that ensure Schedule A appointments are in support of mission accomplishments and are in accordance with merit system principles, applicable laws, and regulations. See Title 5 CFR 213.3102(u) dated March 25, 2013, for information on Schedule A appointments.

Effective immediately, this memorandum supersedes Policy Guidance Memorandum # 32, *Schedule A Appointments of Persons with Disabilities,* dated March 27, 2013.

Background: Schedule A is an Excepted Service appointing authority that may be used for time-limited, permanent, or temporary appointments. This authority can serve as a quick and efficient means to increase the hiring of veterans and individuals with disabilities who meet the eligibility criteria. Schedule A appointments support Executive Order 13548, *Increasing Federal Employment of Individuals with Disabilities;* and Executive Order 13518, *Employment of Veterans in the Federal Government.*

Requirements: Servicing Human Resources Offices (SHRO's) will ensure that applications received from Schedule A applicants and 30 percent compensable service-connected disability veterans (CPS) are considered for available positions to the fullest extent legally possible. SHRO's must develop processes for the management of unsolicited applications from Schedule A eligibles that adhere to Merit System Principles in 5 USC 2301(b), align with this policy guidance, and are applied consistently throughout.

Veterans Preference: Veterans preference applies when considering Schedule A appointments. The Veterans' Preference Act requires that selections be made from among qualified applicants for appointment to excepted service vacancies in the same manner and under the same conditions required for the competitive service by 5 U.S.C. 3308-3318.

Responsibilities: Candidates may be obtained through many avenues that include but are not limited to: job opportunity announcements, job banks, standing registers, referrals, vocational rehabilitation programs, university/college disability services organizations, or unsolicited applications. SHRO's have the flexibility to refer those candidates that meet job qualification requirements through either competitive or non-competitive processes, or both. Recruitment sources may be found in the Operational Plan and Desktop Reference for the Disability Employment Program

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(http://www.energy.gov/sites/prod/files/2013/08/f2/Final%20Signed%20SOP%20Disability%20Employment.pdf).

Procedures: As positions become vacant and before taking action to fill the position or consider Schedule A eligibles, the Hiring Manager and SHRO should conduct a fact-based evaluation of the physical and/or mental requirements necessary for satisfactory performance. Valid physical and/or mental requirements based on functional job requirements and work environment factors will be reflected in the position description. The review should result in the elimination of any unnecessarily restrictive requirements that could potentially exclude individuals with disabilities.

Solicited Applications through Merit Promotion Job Opportunity Announcements (JOA's): Schedule A applicants who have applied and are qualified through delegated examining procedures will be considered through the normal delegated examining (Category Rating) process. SHRO's may also refer candidates under the non-competitive Schedule A process who were obtained through unsolicited means and have expressed interest in special employment considerations.

There may be instances when unsolicited applications are received without applying for a specific job opportunity announcement (JOA) or public notice. In accordance with regulation, SHRO's will accept an unsolicited application from a Schedule A eligible, at any time. SHROs will ensure that Schedule A eligibles are considered for available positions through use of the following procedures:

- Before posting announcements through the competitive process, a review of all unsolicited applications from Schedule A eligibles will be conducted by the SHRO and qualified candidates referred to the hiring manager. This will allow rapid referral of qualified candidates and may eliminate the need to post a job announcement.

- When the resume indicates that the applicant may be qualified but does not contain enough information to make a determination, SHRO's are responsible for securing necessary information including answers to specialized experience questions for the position and/or supporting documents, before making referrals.

- In accordance with requirements under the Americans with Disabilities Act (ADA) of 1964 and 29 CFR §1602.14, unsolicited applications will be kept for a minimum of one year from the date of receipt or personnel action, whichever is later. Where a charge of discrimination has been filed, see 29 CFR §1602.14 for retention.

- Applications will be maintained in accordance with DOE security procedures for Personally Identifiable Information and in accordance with Records Inventory and Disposition Schedule (RIDS) requirements.

- Unsolicited applications from applicants seeking jobs in geographic locations that clearly do not align with DOE sites or career opportunities at the SHROs' location(s) will not be maintained. The applicant must be informed of the receipt and disposition of their application. Applicants may be furnished contact information for other DOE program

offices or field locations that are possibly a better fit. See the listing of Special Placement Program Coordinators or Veteran Employment Officers (http://www.energy.gov/jobs/about-us/contact-us).

- Upon receipt of the unsolicited application, applicants will be notified of the retention period and the requirement to submit an updated resume and supporting documentation if they wish to be considered after the retention expiration date.

- A qualified and available veteran will be furnished with the reason(s) for non-selection, upon request. See 5 CFR 302.101(c).

- For unsolicited applications maintained by the SHRO, applicants will be informed that although they may be referred for consideration when they meet job qualification requirements, the burden remains with the applicant to apply for positions available through posted job announcements.

- Before an unsolicited applicant is referred to the selecting official, the SHRO must contact the applicant to determine job interest, and obtain necessary documentation.

Shared Register: When recruiting from outside of the agency for positions covered by a standing register, SHRO's will ensure proper consideration of all qualified Schedule A and 30 percent or more disabled veterans who have indicated an interest in employment at their location(s). This will be done prior to posting a job announcement. SHRO's must provide a certification to the Office of Policy, Accountability, and Technology (HC-10) that this was completed in advance of posting a job announcement.

SHRO's are encouraged to educate their managers and selecting officials regarding the appropriate process of assessing candidates with disabilities through competitive and non-competitive procedures. Information regarding the assessment of individuals with disabilities through competitive procedures while not applicable to Schedule A appointments, can be found in the Delegated Examining Operations Handbook, Appendix O.

Recent Schedule A Changes: On March 25, 2013, Title 5 CFR 213.3102(u) was amended to make it easier to appoint people with certain disabilities using the Schedule A hiring authority.

- Applicants with intellectual disabilities, severe physical disabilities, or psychiatric disabilities, who have work, educational, or other relevant experience, are no longer required to produce "certificates of readiness" as a condition of appointment. Individuals with disabilities appointed under the Schedule A authority are subject to qualification standards the same as any Federal employee. Job readiness is determined by an applicant's employment, educational, or other relevant experience, including but not limited to service under another type of appointment in the competitive or excepted service. Consideration is given to the degree that a qualified individual can successfully perform the essential job functions and meet physical job requirements with or without appropriate reasonable accommodations.

- The requirement for proof that the applicant has a qualifying disability remains in effect and documentation must be submitted prior to making an appointment. See 5 CFR 213.2102(u)(2)(ii) for documents that can be accepted as proof of disability. Documentation must be on letterhead and certify that the disability is either long-term or permanent in nature, or both.

- The term "intellectual disability" replaces "mental retardation". As defined, "intellectual disabilities" includes only the disabilities that were previously encompassed by the term "mental retardation."

Temporary (Provisional) Appointments to Determine Job Readiness: Where it is necessary to observe the applicant on the job to determine whether the applicant is able or ready to perform the duties of the position, a temporary appointment may be made under 5 CFR 213.3102(u)(5)(i). Applicants will be converted to a permanent appointment in the excepted service upon determination of job readiness, and no longer than 120 days from the appointment date. The charts on page 3 provide information necessary to process these actions. Applicants that fail to prove job readiness during the trial period do not have rights to further employment at the end of the initial appointment. It is the responsibility of the hiring managers to consult with their SHRO regarding termination of the appointment. Temporary appointments may also be granted when the work is of a temporary nature.

Re-employment Rights: A DOE employee may accept a different temporary Schedule A appointment under 5CFR 213.3102(u)(5)(i) and may be granted re-employment rights to his/her previous position based on an inability to prove job readiness within the 120 day time-frame. The DOE employee must obtain approval from their losing supervisor and consult with their servicing HR office for approval and additional guidance before accepting the temporary appointment. SHRO's with work with the manager and employee to establish a written agreement between the manager and employee outlining re-employment rights. During the temporary appointment, managers will consult regularly with the SHRO regarding the employee's performance.

Non-competitive Conversion: Employees hired under the Schedule A hiring authority are eligible for non-competitive conversion to the competitive service upon completion of 2 years of service without a break of more than 30 days. See 5 CFR 213.3102(u)(6). Time spent on a temporary appointment when the work is of a temporary nature does not count towards the 2 years of service. (5 CFR 213.3102(u)(5)(ii)).

Probationary Period and Performance Standards: Depending on the type of appointment, Schedule A appointments typically last two years. When considering job performance, Schedule A candidates should be held to the same performance standards as all other employees once the employee's accommodation needs, if any, have been met. With necessary accommodations in place, managers should expect no more or less from a Schedule A employee than from any other employee. The intent of Executive Order 13548 is that employees on Schedule A appointments will gain competitive status after two years. Once the probationary period has been completed, Schedule A employees with successful performance should be converted to permanent competitive status.

Employees Leaving Competitive service for Temporary Appointments: Temporary appointments under 5 CFR 213.3102(u) do not include re-employment rights. Therefore, if the employee voluntarily leaves the competitive service for an excepted service appointment under this authority, the employee must sign a written statement in accordance with 5 CFR 302.102.

Codes for Processing Personnel Actions for Schedule A: The following charts, contained within the Guide to Processing Personnel Actions, provide a summary of the appropriate codes to be used for processing Schedule A appointments.

If the person	**And the appointment**	**And the person**	**Then NOAC is**	**NOA is**	**Auth code is**	**Authority is (See Notes 1-4 of this table)**
Is being employed under Schedule A	Is temporary	Is not on your agency's rolls	171	Exc Appt NTE (date)	WUM (Severe Physical Disabilities) WTA (Intellectual Disabilities) WTB (Psychiatric Disabilities)	213.3102(u)(5)(i)
Is being converted under Schedule A	Is temporary	Is already on the rolls of your agency	571	Conv to Exc Appt NTE (date)	WUM (Severe Physical Disabilities) WTA (Intellectual Disabilities) WTB (Psychiatric Disabilities)	213.3012(u)(5)(i)

See the Guide to Processing Personnel Actions, Table 11-A.

If the Appointment is Based On	**And the Person**	**And the Appointment is**	**Then NOAC is**	**NOA is**	**Auth Code is**	**Authority is**
Conversion of an appointment which was made under Schedule A, Sec. 213.3102(u)	Is already on the rolls of your agency	Career	500	Conv to Career Appt	L1M	Reg. 315.709
		Career-Conditional	501	Conv to Career-Cond Appt		

See the Guide to Processing Personnel Actions, Table 9-G.

Veterans: The 30 percent or More Disabled Veteran Hiring Authority is a non-competitive, non-status appointment of at least 60 days. (5 USC 3112; 5 CFR 315.707; 5 CFR 316.302 and 5 CFR 316.402(b)(4)). Appointments may be temporary, term or provisional. Applicants may file an application at any time. Managers may choose to noncompetitively convert from the initial time-limited appointment without a break in service to career or career-conditional appointments at any time during the appointment period. Veterans with a service connected disability of 30% or higher will be granted the same application and referral considerations as outlined above for Schedule A eligibles. When they are qualified for positions filled through a register they must be added to the register, even when it is closed to other applicants. For more information see the Office of Personnel Management's (OPM) Vet Guide at: http://www.opm.gov/policy-data-oversight/veterans-services/vet-guide/.

- Disabled Veterans That Completed a Vocational Rehabilitation Program under Title 38, Chapter 31: Candidates may also be considered at any time and referred when they meet eligibility and job requirements. See 5 CFR 316.302 (b)(3) or 5 CFR 316.402 (b)(3). When they are qualified for positions filled through a register they must be added to the register, even when it is closed to other applicants.

- Filing Late Applications: A disabled veteran may file a late application under certain circumstances by contacting the employing agency. SHRO's are responsible for accepting, retaining, and considering their application in accordance with law and regulation regardless of whether case examining, non-competitive appointment, or a register of eligibles is used. See the Vet Guide for more information: http://www.opm.gov/policy-data-oversight/veterans-services/vet-guide/.

Authorities: Title 5 Code of Federal Regulations (CFR) §213.3102(u); §302.101; §315.707; §316.302; §316.402; §1602.14; §2301; and §3112.

Please ensure your immediate staff and hiring managers are aware of this guidance. If you have questions, you may contact Jennifer Ackerman, Director, Human Capital Policy (HC-11) at Jennifer.ackerman@hq.doe.gov; or Donna Friend, Veteran and Disability Employment Program Manager (HC-11) at donna.friend@hq.doe.gov.

Promotions Using Schedule A: Schedule A may be used to promote employees when there are no other employees in the work unit that would qualify for the position. The employee must be informed that the position will be in the Excepted Service and they will be required to serve a new probationary period of two years. The employee must provide documentation that they have a qualifying disability. When there are other employees within the work unit that would qualify for the position, SHRO's must post a merit promotion announcement and adjudicate veteran's preference.